

1 YOUR NAME Donald G. Loomis
2 YOUR ADDRESS 12181 Brixton Court Moreno Valley, California 92557-6845
3 YOUR TELEPHONE NUMBER 951-247-3828

FILED

2008 JUL 29 PM 2:37

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY [Signature] DEPUTY

'08 CV 1367 J JMA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(Must start on line 8 or below)

Donald G Loomis

-v-

The United States of America, The US
Department of Defense, The Defense
Commissary Agency.

Case No. _____
(To be assigned at time of filing)

COMPLAINT FOR (Brief description of document)

Plaintiff alleges:

The morning of January 18, 2006, Miss Ponsietta Lynch did willfully, and maliciously engage in an act of Intentional infliction of severe emotional distress against me, Donald G. Loomis, while on the job and an employee of the Defense Commissary Agency, The US Department of Defense, and the United States of America.

I was also on the job and an employee of the Defense Commissary Agency, the US Department of Defense and the United States of America.

this act of Intentional infliction of severe emotional distress has resulted in an exacerbation of a previously existing condition to the point whereby I can no longer be employed and have suffered severe emotional damage in excess of Two Million Dollars.

[Signature]

claim I have submitted under Federal Tort Claims Act.
I wish similar under EEOC rules

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of the form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency: <i>Defense Commissary Agency</i> <i>40 March ARB Commissary</i> <i>15150 6th Street</i> <i>Riverside, Ca. 92518</i>		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) <i>Donald Loomis</i> <i>12181 Brixton Ct.</i> <i>Moreno Valley, Ca. 92557</i>			
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH <i>09-09-1945</i>	5. MARITAL STATUS <i>5/divorced</i>	6. DATE AND DAY OF ACCIDENT <i>Jan 18 2006</i>	7. TIME (A.M. or P.M.) <i>0700-0800</i>	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.) <i>see Attachment 1. The basis is premeditated, willful, malicious intentional infliction of severe emotional distress resulting in permanent 100% disability & Loss of employment.</i> <i>see attachments, witness statements, Dr. Nese man staff.</i>					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.)					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. <i>Personal humiliation in public. severe depression. severe anxiety/panic attacks, nightmares, extreme difficulty sleeping. Fear. suicidal Ideation, Homicidal Ideation. Loss of enjoyment of life. Complete loss of workability To work.</i>					
11. WITNESSES					
NAME		ADDRESS (Number, street, city, State, and Zip Code)			
<i>Madeline Stroud</i>		<i>March ARB 15150 6th St. Riverside Ca. 92518</i>			
<i>Elvira Mc Clein</i>		<i>" " " " "</i>			
<i>Andrea Walker</i>		<i>24511 Bial Avo Moreno Valley, Ca. 92581</i>			
<i>Sherry Achibay</i>					
12. (See instructions on reverse)					
AMOUNT OF CLAIM (In dollars)					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY <i>2,043,670.00</i>	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) <i>2,043,670.00</i>		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) <i>Donald R. Loomis</i>		13b. Phone number of signatory <i>951-247-3828</i>	14. DATE OF CLAIM <i>4-May-2007</i>		
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of \$2,000 plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)			

10 years pay, this do don't include the step increase stuff	393,670.00
damages for previous (before filing claim), ongoing & future depression	200,000.00
damage for previous, ongoing, & future anxiety/panic attacks	200,000.00
damage from public humiliation in workplace	150,000.00
damage for previous, ongoing & future nightmares	100,000.00
damage for losing employment now & in future	500,000.00
damage for loss of enjoyment of life previous, ongoing & in future	500,000.00
	<hr/>
Sum Certain Total	2,043,670.00

David E. Rame

Progress Note

Printed On Jun 02, 2008

AUTHOR: NESSMAN, DONALD G
URGENCY:EXP COSIGNER:
STATUS: COMPLETED

Vet att ptsd 12 step grp(90853) for the tx of 309.81 with 11 other VN combat vets. Vet approp in the grp. He is working on more effectively applying the 12 step approach to of ptsd as they impact his daily life and relationships. He also provides support and members in their personal struggles with ptsd. One grp member rtn from an extended t; Cambodia. His ptsd was severely triggered in Cambodia by the heat/humidity, sights of seeing amputee survivors as well as rice paddies, water buffalo, etc. Had to withdraw and relied on his meds. Grp empathized with vet's cautionary tale. Another vet dealt emotional numbing. Two members dealt with wife related situations. All members check close of grp. Plan: con to meet with ptsd 12 step grp weekly. Vet may have a copy

/es/ DONALD G NESSMAN PhD
Staff Psychologist
Signed: 05/29/2008 17:51

LOCAL TITLE: BHOST/INDIVIDUAL NOTE
STANDARD TITLE: MENTAL HEALTH NOTE

DATE OF NOTE: MAY 29, 2008@17:23

ENTRY DATE: MAY 29, 2008@17:23:46

AUTHOR: NESSMAN, DONALD G

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

Met with vet for indiv therapy(90808)and group therapy(90853) for the tx of 309.81. Mr Loomis is under my care for chronic post-traumatic stress disorder (309.81) He was initially under my care beginning in 1991 and returned to my care on 3/21/05 for treatment of ptsd caused by his service as a highly decorated helicopter pilot in the Vietnam War. However, his ptsd was severely exacerbated by the 1/18/06 incident at the March ARB commissary. He is totally and permanently disabled and unemployable due to severe symptoms of post-traumatic stress disorder. His prognosis is guarded with continued treatment by indiv therapy, group therapy and medication. Without treatment, his prognosis is poor. Mr Loomis will not be able to return to work in any capacity. Plan: continue to meet with vet fro indiv therapy and weekly group therapy. Vet may have a copy of this note.

/es/ DONALD G NESSMAN PhD
Staff Psychologist
Signed: 05/29/2008 17:38

LOCAL TITLE: SURG/OPTOM/CLINIC VISIT NOTE
STANDARD TITLE: SURGERY OUTPATIENT NOTE

DATE OF NOTE: MAY 29, 2008@14:03

ENTRY DATE: MAY 29, 2008@14:03:33

AUTHOR: KAMIYAMA, RICHARD

EXP COSIGNER:

URGENCY:

STATUS: COMPLETED

PATIENT NAME AND ADDRESS (Mechanical Imprinting, if available)

LOOMIS, DONALD
12181 BRIXTON CT
MORENO VALLEY, CALIFORNIA 92553
536445919

VISTA Electronic Medical Documentation

Printed at LOMA LINDA VAMC

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Donald G Loomis
12181 Brixton court Moreno valley Ca. 92557

(b) County of Residence of First Listed Plaintiff Riverside
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

United States of America, U.S. Department of Defense,
Defense Contract Agency

County of Residence of First Listed Defendant
CLERK U.S. DISTRICT COURT (PLAINTIFF CASES ONLY)

SOUTHERN DISTRICT OF CALIFORNIA
LAND INVOLVED.

Attorney: Unknown

08 CV 1367 J JMA

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|---|--|---|---------|--|
| Citizen of This State | PTF DEF | <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF DEF | <input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 | | |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input checked="" type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Federal tort Claims act 28 USC 2680
 Brief description of cause:
 Intentional infliction of severe emotional distress

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$ 2,043,670.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/29/2008

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____